

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

UNITED STATES OF AMERICA)	DOCKET NO. 3:19CR35-RJC
)	
v.)	JOINT
)	MOTION TO CONTINUE
ROBERT McCOY, JR.)	TRIAL

NOW COMES Defendant ROBERT McCOY, JR., by and through undersigned counsel, and hereby moves to continue the trial of this matter from March 18, which is the current trial date in this case. This motion is joined in by the government.

Defendant is charged with criminal contempt emanating from a bankruptcy/civil matter in this District. In that civil case, 3:18-CV-630-RJC, this Honorable Court entered an Order on February 5 which mandated the following: (1) that the case be withdrawn from the Bankruptcy Court; (2) that the U.S. Attorney was requested to prosecute criminal contempt against McCoy; (3) that the U.S. Attorney was requested to conduct a criminal investigation into allegedly fraudulent and perjurious conduct of McCoy and his wife; (4) that trial of the criminal contempt matter be held on March 18, 2019.

The criminal contempt matter is based on a fairly complex series of events, pleadings, court hearings, and court orders in the Bankruptcy Court. There were at least three hearings where testimony was taken which is pertinent to this case. However, the defense does not have full transcripts of any of those hearings and has not yet been able to successfully access the audio recordings of said hearings. For these reasons, counsel for McCoy will not be prepared to provide effective assistance of counsel to McCoy if the trial is held just two weeks from today.

The instant motion is Defendant's first motion to continue the trial in this case.

The defense has not yet received any discovery from the government. The government, through assigned Assistant U.S. Attorney William Miller, indicates that the government has not yet completed its requested investigation. For that reason, the government joins in this motion to continue the trial.

Accordingly, due to counsel's lack of preparation, if trial is held on March 18, McCoy's attorney will be unable to provide Defendant with effective assistance of counsel. Therefore, pursuant to 18 U.S.C. §3161(h)(7)(B)(iv), Defendant submits that a denial of this continuance motion would deny Defendant and his counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Therefore, based on the foregoing, Defendant respectfully requests this Honorable Court to continue the trial of this matter from March 18 term to a later date.

Respectfully submitted,

March 4, 2019

s/ Mark P. Foster, Jr.
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above **JOINT MOTION TO CONTINUE TRIAL** has been duly served on the attorney listed below by e-mail service through ECF on this date:

William Miller
U.S. Attorney's Office
227 W. Trade Street, 17th Floor
Charlotte, NC 28202

March 4, 2019

s/ Mark P. Foster, Jr.
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